

## TRANSMITTAL OF APPEAL BRIEF (Large Entity)

Docket No.  
P23,305-A USA

In Re Application of: Joshua M. Kopelman  
JAN 13 2006  
Srinivas Balijepalli  
Christopher Fralic

Application No. 09/935,287	Filing Date August 22, 2001	Examiner G. O'Connor	Customer No. 23307	Group Art Unit 3627	Confirmation No. 9679
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Invention: METHOD AND APPARATUS FOR LISTING GOODS FOR SALE

COMMISSIONER FOR PATENTS:

Transmitted herewith in triplicate is the Appeal Brief in this application, with respect to the Notice of Appeal filed on  
September 27, 2005

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

**Joshua M. Kopelman  
Srinivas Balijepalli  
Christopher Fralic**

Examiner: **G. O'Connor**

Application No.:  
**09/935,287 (Conf. No. 9679)**

Group Art Unit: **3627**

Filed: **October 27, 1999**

Docket No.: **2043.047US4**

For: **METHOD FOR LISTING GOODS  
FOR SALE BY TELEPHONE**

(S&L Docket No. P23,305-A USA)

**CERTIFICATE OF MAILING**

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*Kathy Higgins*  
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Attn: Board of Patent Appeals and Interferences

**APPELLANTS' BRIEF**

Dear Sir/Madam:

By virtue of mailing a Notice of Appeal on September 27, 2005, Appellants have appealed the final rejection of the Examiner in the Office Action mailed July 27, 2005 (hereinafter the "Final Action"). The Notice of Appeal was received by the United States Patent and Trademark Office on September 29, 2005. A Pre-Appeal Brief Request for Review was also mailed on September 27, 2005. A Notice of Panel Decision from Pre-Appeal Brief Review was mailed on November 7, 2005. A Petition

for One-Month Extension of Time is forwarded herewith to extend the due date for Appellants' Brief to January 9, 2006, January 7, 2006 being a Saturday.

Submitted herewith is the fee for filing a brief in support of an appeal, as set forth in 37 C.F.R. § 41.20(b)(2) (\$500). The Commissioner is hereby authorized to charge any additional fees in connection with this appeal/brief to Deposit Account No. 19-5425.

## **1. REAL PARTY IN INTEREST**

The present application had been assigned to half.com, Inc., which is now a wholly owned subsidiary of eBay, Inc., having a place of business at 2145 Hamilton Ave., San Jose, CA 95125 ("eBay"). Accordingly, eBay is the real party in interest.

## **2. RELATED APPEALS AND INTERFERENCES**

The Appellants, assignee and the legal representatives of both are unaware of any other appeal or interference that will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

## **3. STATUS OF CLAIMS**

- a. Claims: 1-32.
- b. Claims canceled: 14-20.
- c. Claims pending: 1-13 and 21-32.
- d. Claims allowed: none.
- e. Claims rejected: 1-13 and 21-32.
- f. Claims appealed: 1-13 and 21-32.

Claims 1-13 and 21-32 as currently pending are attached as Appendix A hereto.

**4. STATUS OF AMENDMENTS**

A Reply under 37 C.F.R. § 1.112 was mailed on May 11, 2005, and resulted in the final Office Action, dated July 27, 2005, appealed herein. No amendment after final was filed in the present case.

A Notice of Appeal was mailed on September 27, 2005, along with a Pre-Appeal Brief Request for Review. The application remains under appeal.

**5. SUMMARY OF CLAIMED SUBJECT MATTER**

Generally, the present invention relates to use of a telephone to provide information about a good to a computerized system that will present the good for sale on a website, e.g. in an electronic marketplace. Accordingly, for example, a seller may list goods for sale on a website without the need for a computer, making it convenient to list goods for sale from a location where no computer is present, such as a warehouse, garage, attic, basement or other location where old books or other goods may be stored, but where a telephone is accessible or may be used. Page 4, lines 13-16. Each of the independent claims is discussed below with reference to the specification.

Claim 1: A computer-implemented method for listing an independent seller's good for sale using a CPU, a memory operatively connected to the CPU and a program stored in the memory and executable by the CPU for presenting the good for sale on a website, the method comprising: receiving from a seller information identifying a good, the information comprising a series of tones generated by depression of keys of a telephone (page 6, line 15 - page 7, line 7; page 7, lines 12-15; page 8, lines 14-23; Figure 2, step 35; Figure 4); and presenting the good for sale on a website (page 7, line 18 - page 8, line 4; page 9, lines 12 - page 10, line 14; 5; Figure 2, step 45; Figure 3, step 90).

Claim 23: A computer-implemented method for listing an independent seller's good for sale using a CPU, a memory operatively connected to the CPU and a program stored in the memory and executable by the CPU for presenting the good for sale on a website, the method comprising: receiving from a seller a series of tones comprising tones generated by depressing keys of a telephone in a sequence corresponding to an alphanumeric sequence of a standard identification code (*page 4, lines 6-8; page 6, line 15 - page 7, line 7; page 7, lines 12-15; page 8, lines 14-23; Figure 2, step 35; Figure 3, step 60; Figure 4*); adding the good to a virtual inventory of goods being offered for sale (*page 7, line 18- page 8, line 22; page 9, lines 12-18*); retrieving from the memory information associated with the standard identification code, the information relating to the good (*page 7, line 22 - page 8, line 4; Figure 3, step 85*); and presenting the good for sale on a website to display the information retrieved from the memory using the standard identification code (*page 7, line 22 - page 8, line 4; page 9, line 1 - page 10, line 5; Figure 2, step 45; Figure 3, step 90*).

## **6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

Applicant requests that the Board review the rejection of claims 1-13 and 21-32 under 35 U.S.C. §103(a) over U.S. Patent No. 5,283,731 to Lalonde et al. ("Lalonde").

## **7. ARGUMENT**

### **A. The Examiner has not Established a *prima facie* Case of Obviousness**

As set forth in the MPEP, with respect to the obviousness standard of 35 U.S.C. §103(a):

To establish a *prima facie* case of obviousness, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skilled in the art, to modify the reference or to combine reference teachings.

MPEP 2143.

**B. Claims 1-13, 21 and 22**

Claims 1-13, 21 and 22 each require "receiving from a seller information identifying a good, the information comprising a series of tones generated by depression of keys of a telephone." Contrary to the Examiner's assertion on page 3 of the final Action, Lalonde fails to teach or suggest "receiving from a seller information identifying a good, the information comprising a series of tones generated by depression of keys of a telephone."

In Lalonde, while the system may receive tones generated by depression of keys of a telephone, such information is not information identifying a good. Instead, the tones are basic function control requests of a conventional type (e.g. a tone generated by pressing the "1" key in response to a voice prompt "If you would like to \_\_\_\_\_, press 1 now . . . .". In response, the system routes the call/control accordingly. See Lalonde, col. 5, lines 46-51.

The Examiner has not provided, in any Office Action, any citation to any portion of Lalonde that is relied upon as teaching or suggesting that touch tones generated by depressing keys of a telephone are used to convey to a computerized system information identifying a good that a seller wishes to sell; instead, the Examiner merely provides a conclusory statement that "Lalonde et al. discloses [the claim recitation]."

Lalonde discloses a computer-based classified ad system and method by which an ad database is created and/or used. The system may include an interactive voice response (IVR) system. Abstract. The IVR is a computer specialized for storing digital audio scripts, and for playing back such scripts in response to digital or touchtone inputs. Col. 3, lines 64-66. The IVR can also convert a message from a database into voice form by concatenating individual voice segments into an output voice message. Col. 4, lines 17-21. Accordingly, a caller can interact with the IVR system by pressing designated keys on the caller's telephone to cause playback of pre-recorded digital

audio scripts and/or to cause routing of a call. Col. 3, lines 64-66. The IVR system converts text output data into a voice message so that buyers can listen to ads via a telephone. See Abstract.

When Lalonde's system receives an incoming call and recognizes it as a voice call, the IVR system plays a pre-stored voice script including any introductory information, instructions on how to use the system, etc. The audio script may ask the caller to identify a desired function, for example by pressing designated touchtone keys on the caller's telephone. The system analyzes the function that the caller has requested and routes control accordingly. See col. 5, lines 46-51; Figure 2, blocks 112, 114, 116; col. 5, lines 29-51.

If the caller is a seller, then the caller can ask to place a new ad in Lalonde's system. Col. 5, lines 53-55. In this event, Lalonde's system routes control away from the IVR system. Col. 5, lines 53-55; Figure 2, blocks 112, 114, 116; col. 5, lines 29-51. With respect to routing of a seller's call, Lalonde states that:

[i]f the incoming caller identifies itself as a seller wishing to place a new ad, then the IVR identifies the caller's requirement as pertaining to a non-IVR based function, and sends an operator request message to [database server] 16 via serial line 24, as shown in block 116 of FIG. 2. In response to the operator request message, the [database server] begins prompting the [human] operator at [computer] terminal 40 for information relating to the ad. In turn, the operator relays these requests to the seller via [headphone/microphone] headset 42 and [telephone] switch 12, receives the seller's responses by the same path, and inputs such responses to [database server] 16, to create a new ad in database 30. Col. 6, lines 3-18.

Accordingly, although Lalonde teaches a system that can be used by a seller to create an ad for a good, and although Lalonde teaches that the system may include an IVR, Lalonde further teaches that the IVR is not used to interact with a seller to receive information about a good. Instead, Lalonde teaches that the call is routed to a human operator who interacts with the seller by telephone. The seller provides all information identifying and relating to a good in the form of voice communication with the human

operator. Lalonde fails to teach or suggest using an IVR, or using touch tones, to provide information identifying a good. For at least this reason, Lalonde fails to teach or suggest all limitations of claim 1, namely "receiving from a seller information identifying a good, the information comprising a series of tones generated by depression of keys of a telephone."

For completeness, it is noted that Lalonde includes a statement at col. 6, lines 14-18 that "this step could be automated using the IVR." However, "this step" relates to the step discussed in the same paragraph (col. 6, lines 3-18), with respect to Figure 2, namely, the method step shown at block 116 in the method flowchart of Figure 2, which reads "send [operator] request message to DBS." Lalonde further indicates that although it is satisfactory that this particular step (namely "SEND OP REQUEST MESSAGE TO DBS", block 116, Figure 2, which is not a step that is gathering of ad information) could be automated using the IVR, it is preferable to "use a human operator as an interface [for receiving ad information], because of the amount of variability involved in placing an ad, explaining to the seller the options available, etc." Col. 6, lines 14-18. There is no method step shown in Figure 2 that relates to gathering of ad information from a seller. Nothing in the paragraph, Col. 6, lines 3-18 relates to use of an IVR, nor use of touch tones, to gather information identifying a good, or other ad information. The fact that a user of Lalonde's system may use touch tones to cause Lalonde's system to play pre-stored audio scripts and/or to request control functions, is inapposite. Lalonde does not teach or suggest use of its IVR, or touch tones, to gather information identifying a good.

In any event, use of the IVR, which allows for playing of digital audio scripts in response to a user's selection of control functions in touch tone form, is not an automated gathering of information about a good in computer-recognizable touch tone form.

Obtaining ad information from a seller (Figure 3, block 154) is discussed in the following paragraph of Lalonde. This entire paragraph (col. 6, lines 19-41) relates only to use of the human operator to gather ad information. Thus, Lalonde identifies difficulties relating to the variability involved in placing an ad and explaining available options to the seller that indicate Lalonde's view that it would be undesirable to use an IVR for receiving ad information. Thus, Lalonde fails to teach or suggest all claim limitations. Further, there is nothing in Lalonde or elsewhere to suggest the desirability, and thus the obviousness, of using Lalonde's IVR, or applicant's system, to gather ad information. Thus, Lalonde teaches away from use of an IVR, or a touchtone-based system, to gather information identifying a good.

Accordingly, Lalonde teaches that the IVR is not used to interact with a seller to receive information about a good. Instead, Lalonde teaches that the call is routed to a human operator who interacts with the seller by telephone. For at least this reason, Lalonde fails to teach or suggest "receiving from a seller information identifying a good, the information comprising a series of tones generated by depression of keys of a telephone." Further, there cannot be motivation to modify Lalonde to use an IVR, etc. to receive information about a good in the form of a series of tones generated by depression of keys of a telephone.

For at least these reasons, claims 1-13, 21 and 22 are patentable. Reconsideration and withdrawal of the rejections, and allowance, of claims 1-13, 21 and 22 are requested respectfully.

### **Claims 3, 4 and 5**

Claims 3, 4 and 5 depend from claim 1 and are likewise patentable. In addition, claim 3 further recites that "the series of tones comprises tones generated by depressing the telephone's keys in a sequence corresponding to an alphanumeric

sequence of a standard identification code." Claim 4 recites that "the standard identification code is a universal product code." Claim 5 recites that "the standard identification code is an international standard book number." See page 8, lines 12-16.

The Examiner states on pages 3-4 of the Final Action that:

Lalonde . . . does not include that the tones generated indicate a sequence corresponding to an alphanumeric sequence of a universal product code (UPC), international standard book number (ISBN), or other standard identification code.

Applicants agree. Further, Applicants acknowledge that standard product identification codes such as UPC and ISBN number are well-known to those of ordinary skill in the art.

However, Applicants traverse the Examiner's assertion that it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the method of Lalonde so as to allow a standard identification code such as UPC or ISBN to be entered in order to conveniently identify the good being sold. There is absolutely no teaching or suggestion whatsoever of any use of UPC, ISBN or other standard identification codes in Lalonde. Further, providing such a code, particularly in the form of touch tones, would be of no use to a human operator, and thus would be unsatisfactory for Lalonde's intended purpose of providing descriptive ad information about the good. Further still, Lalonde is devoid of any disclosure as what to do with such a code. To list it in an advertisement (e.g. For Sale: UPC XXXXXXXXXX) would not provide meaningful ad information for attracting a buyer; i.e. it would result in a classified ad that would be nonsensical to a classified ad reader. In contrast, applicants disclose using the UPC/ISBN number provided by the seller as a short-hand, convenient way for a seller to identify a good, and to use that number to retrieve pre-stored good information that will attract a buyer, e.g. title, author, cover art, book review, etc. Lalonde is devoid of any teaching or suggestion to use information

provided by a seller to retrieve additional information for inclusion in a classified ad; instead Lalonde teaches including only the information provided by the seller in the classified ad. A UPC/ISBN number, etc. alone is not enough to provide meaningful ad information to a buyer.

Further, there cannot be motivation to make the proposed modification of Lalonde because doing so would destroy the purpose of the system/method of Lalonde and/or render it unsatisfactory for its intended purpose, because the system/method provides for a human operator's receipt of information from a seller, and limitation of system functions to certain other functions. Use of touch tones, which would be unrecognizable to the human operator, to provide good related information would render the human operator unsatisfactory for its intended purpose of gathering information from a seller, or would change the principle of operation of selectively routing calls to a human operator.

For at least these additional reasons, claims 3-5 are patentable. Reconsideration and withdrawal of the rejections, and allowance, of claims 3-5 are requested respectfully.

#### **Claim 6**

Claim 6 depends from claim 1 and is likewise patentable. In addition, claim 6 requires "retrieving information relating to the good from a database; wherein said information is used to present the good for sale." Lalonde is devoid of any disclosure of presenting a good for sale using information provided by the seller and information related to the good that has been retrieved from a database, e.g. such as a pre-stored book cover that would not be provided by a seller over the phone. See page 8, lines 1-4.

Reconsideration and withdrawal of the rejection, and allowance, of claim 6 are requested respectfully.

**Claim 7**

Claim 7 depends from claim 1 and is likewise patentable. In addition, claim 7 requires that "said presentation of the good for sale is performed in real time." Contrary to the Examiner's assertion on page 4 of the Final Action, this is neither taught nor suggested by Lalonde. Lalonde is completely silent in this regard.

Reconsideration and withdrawal of the rejection, and allowance, of claim 7 are requested respectfully.

**Claim 8**

Claim 8 depends from claim 3 and is likewise patentable. In addition, claim 8 recites that the information comprising a series of tones generated by depression of keys of a telephone further "identifies a characteristic of the good in addition to an identity of the good, the characteristic of the good being incapable of being discerned from the standard identification code, the identity of the good being discernable from the standard identification code." This is neither taught nor suggested by Lalonde. As discussed above, Lalonde fails to teach or suggest any use of a standard identification code. The Examiner has not identified any specific portion of Lalonde believed to disclose this recitation. Instead, the Examiner merely states "the method of Lalonde et al. includes that the information identifying the good identifies a characteristic of the good in addition to an identity of the good." The Examiner does not even assert that a series of tones identifies the characteristic, that the characteristic of the good is incapable of being discerned from the standard identification code, or that the identity of the good is discernable from the standard identification code, as required by claim 8.

For at least this additional reason, claim 8 is patentable. Reconsideration and withdrawal of the rejection, and allowance, of claim 8 are requested respectfully.

### Claims 9, 10, 21 and 22

Claims 9 and 10 depend from claims 1 and 6 and are likewise patentable. In addition, amended claims 9 and 10 require "determining a recommended sale price for the good, the sale price being information relating to the good that is retrieved from the database." The Examiner states on pages 4 and 5 of the Final Action that Lalonde "does not explicitly disclose anyone determining and recommending to the seller any recommended sales price." Applicants agree.

However, the Examiner asserts on pages 4-5 of the Final Action that:

a seller soliciting recommendations for a recommended sales price when selling a used good is a well known, hence obvious, step to follow when selling a good. For example, checking the Blue Book value for a used car before determining an asking price for the car. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the method of Lalonde et al. so as to include someone/something determining and recommending to the seller a recommended sales price, so that the seller would be able to price the good in accordance with the market for the good, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Applicants traverse the Examiner's assertion that the proposed modification would have been obvious. Further, the claim recites that the sale price information relating to the good is retrieved from the database. This is neither taught nor suggested by Lalonde.

Further, the Examiner does not assert otherwise. Contrary to the Examiner's assertion regarding a seller's soliciting of recommendations for a recommended sale price, the seller does no such soliciting in the context of the claimed invention. Instead, the system automatically retrieves from a database price information relating to the seller's good during the listing process.

Further, it is noted that the claimed retrieval of sale price information from a database is part of an integrated, automated process for a seller's listing of a good for sale, not part of the buyer's browsing process. Lalonde provides absolutely no teaching or suggesting of retrieving information relating to a good, such as sale price information, from a database as part of the process of listing an item for sale. Lalonde discloses only receiving information from a seller. Lalonde's disclosure of retrieving information from a database relates only to the buyer's buying process, i.e., presenting previously stored ad information gathered from a seller by an operator to a potential buyer.

Claims 21 and 22 are similar to claims 9 and 10, respectively. However, claims 21 and 22 depend from claim 3 and require "using said standard identification code to reference a database" and "retrieving from the database information relating to the standard identification code, said information including a recommended sale price for the good."

Accordingly, in the context of the claimed invention, the seller can provide only a readily available standard identification code, e.g. an ISBN printed on the cover of a book, and the system will use the provided ISBN code to automatically reference a database and retrieve appropriate selling price information. A known operator need not solicit price information from the seller. The seller need not solicit a price recommendation from the system on another. No discussion of any price would be required in a system in which the seller is not presented with an opportunity to approve the price. See application, page 8, lines 10-21. This is neither taught nor suggested by Lalonde.

For at least these additional reasons, claims 9, 10, 21 and 22 are patentable. Reconsideration and withdrawal of the rejections, and allowance, of claims 9, 10, 21 and 22 are requested respectfully.

### Claims 11 and 12

Claims 11 and 12 depend from claim 1 and are likewise patentable. In addition, claim 11 recites "receiving a seller identification code that identifies the seller." Claim 12 recites that "the seller identification code received comprises tones generated by depressing the telephone's keys in a sequence corresponding to an alphanumeric sequence identifying the seller."

Contrary to the Examiner's assertions on page 5 of the Final Action, Lalonde provides absolutely no teaching or suggestion of any recognizable seller identification code that identifies a seller.

The Examiner has not made any assertion to the contrary. Instead the Examiner has merely asserted that Lalonde discloses "receiving a seller identification code which is recognizable in association with the seller." This is not what is claimed. At most, Lalonde discloses a transaction identifier (TransID) that is assigned to a particular call, and is not associated with any particular seller. In fact, the transaction identifier is assigned before it is determined who the caller is, and whether the caller is a buyer or seller. Col. 5, lines 29-37. Accordingly, Lalonde discloses that the same seller could make multiple calls, each with a different transaction identifier, such that the TransID would be different for multiple calls, for a given seller. Accordingly, no single TransID identifies the seller. Further the TransID is not provided by the seller, nor is it provided by creating tones generated by depressing a telephone's keys. Instead, the PBX (public branch exchange hardware) transmits the TransID to an IVR using touch tone signals. Col. 5, line 32-37. This automated method of communication in Lalonde provides none of the telephone-based convenience to the individual caller/seller that is provided by the present invention. In contrast to the TransID, which would be different for each of a seller's multiple calls, a recognizable seller

identification code in accordance with the present invention would be the same for multiple calls, for a given seller.

Further, it is noted that the rejection is conclusory, and merely a restatement of the rejected claims, with absolutely no reference to any portion of Lalonde, or any language from Lalonde. Despite the undersigned's earnest request that the Examiner identify the particular part of the reference that is relied upon in making the rejection, consistent with 37 CFR §1.104(c)(2), no such portion has been identified. See Final Action, page 5.

### **Claim 13**

Claim 13 depends from claims 1 and 11 and is likewise patentable. In addition, claim 13 recites "wherein the seller identification code is a telephone number of the telephone from which the seller is calling." The Examiner states on page 5 of the Action that "Lalonde et al. does not explicitly include that the seller identification code is a telephone number of the telephone from which the seller is calling." Applicants agree.

Claim 13 further recites that "receiving a seller identification code identifying the seller comprises recognizing the telephone's telephone number by a caller identification technique." This is neither taught nor suggested by Lalonde.

Applicants traverse the Examiner's assertions that the claimed subject matter is obvious. It is unclear as to why the Examiner has made assertions regarding "recommending a sales price based on the seller's geographic are[a]". It is again noted that the rejection is conclusory, with absolutely no reference to any portion of Lalonde, or any cited language from Lalonde. The bases for the Examiner's statements have not been identified. It appears to be the Examiner's own subjective conclusions. The Federal Circuit has clarified that conclusory statements asserting motivation that are

based on "common knowledge and common sense" are not sufficient to fulfill the Board of Patent Appeals' obligation to develop an evidentiary basis for its findings. *In re Sang-Su Lee*, 277 F.3d 1338, 1343-44 (Fed. Cir. 2002). The Examiner has asserted that it would have been obvious to use a telephone number as a seller's identification code, and to use a called ID technique to recognize the number. However, as discussed above, the seller does not even contemplate use of any seller identification code.

The claim, as a whole, is neither taught nor suggested. For at least these additional reasons, reconsideration and withdrawal of the rejection, and allowance, of claim 13 are requested respectfully.

### **Claims 23-31**

As an initial matter, it is noted that the Examiner has not expressed in substantive detail any rejections of claims 23-31. The recitations of those claims are not addressed in the Final Action, or elsewhere. Independent claim 23 is directed to a computer-implemented method including "receiving from a seller a series of tones comprising tones generated by depressing keys of a telephone in a sequence corresponding to an alphanumeric sequence of a standard identification code; adding the good to a virtual inventory of goods being offered for sale; retrieving from the memory information associated with the standard identification code, the information relating to the good; and presenting the good for sale on a website to display the information retrieved from the memory using the standard identification code." As discussed above, Lalonde neither teaches nor suggests any use of any standard identification code, or any display on a website, as discussed above with reference to claim 1. Further, Lalonde neither teaches nor suggests retrieving from the memory information associated with the standard identification code, as discussed above with

reference to claims 21 and 22, and presenting the good for sale on a website to display the information retrieved from the memory using the standard identification code.

For at least these reasons, reconsideration and withdrawal of the rejections, and allowance, of claims 23-31 are requested respectfully.

#### **Claim 24**

Claim 24 depends from claim 23 and is likewise patentable. In addition, claim 24 requires that "the series of tones further comprises tones generated by depressing the telephone's keys to identify a characteristic of the good that is incapable of being discerned from the standard identification code." This is neither taught nor suggested by Lalonde, as discussed above with reference to claim 8.

For at least this additional reason, reconsideration and withdrawal of the rejection, and allowance, of claim 24 are requested respectfully.

#### **Claim 25**

Claim 25 depends from claim 23 and is likewise patentable. In addition, claim 25 requires that "the retrieving from the memory information associated with the standard identification code, and the presenting the good for sale on a website are performed after a buyer inquires about the good." Accordingly, a complete sale listing is compiled and displayed only after a buyer's inquiry. In contrast, Lalonde discloses gathering all sale information (1) directly from the seller and (2) during the initial process of creating an ad/listing a good for sale, before a buyer's inquiry.

For at least this additional reason, reconsideration and withdrawal of the rejection, and allowance, of claim 25 are requested respectfully.

**Claim 26**

Claim 26 depends from claim 23 and is likewise patentable. In addition, claim 26 requires that the "retrieving from the memory information associated with the standard identification code, and the presenting the good for sale on a website are performed after a buyer's search for the good." Accordingly, a complete sale listing is compiled and displayed only after a buyer's search. In contrast, Lalonde discloses gathering all sale information (1) directly from the seller and (2) during the initial process of creating an ad/listing a good for sale, before a buyer's search.

For at least this additional reason, reconsideration and withdrawal of the rejection, and allowance, of claim 26 are requested respectfully.

**Claim 27**

Claim 27 depends from claim 23 and is likewise patentable. In addition, claim 27 requires that "adding the good to a virtual inventory of goods being offered for sale comprises storing in the memory the standard identification code." Lalonde neither teaches nor suggests using the standard identification code to add a good to a virtual inventory of goods, and there is no motivation to modify Lalonde in this manner.

For at least this additional reason, reconsideration and withdrawal of the rejection, and allowance, of claim 27 are requested respectfully.

**Claim 28**

Claim 28 depends from claim 23 and is likewise patentable. In addition, claim 28 requires that "retrieving from the memory information associated with the standard identification code comprises retrieving a recommended sale price for the good, the method further comprising providing the recommended sale price to the seller." As discussed above, Lalonde neither teaches nor suggests any retrieval of suggested

price information from a database, or using a standard identification code as a reference.

For at least this additional reason, reconsideration and withdrawal of the rejection, and allowance, of claim 28 are requested respectfully.

### **Claims 29-31**

Claims 29-31 depend from claim 23 and are likewise patentable. In addition, claims 29-31 relate to receipt of a seller identification code that is recognizable to identify seller information previously provided in association with the seller. This is neither taught nor suggested by Lalonde.

Claim 30 further recites that the seller identification code comprises tones generated by depressing the telephone's keys in a sequence corresponding to an alphanumeric sequence associated with the seller. This is neither taught nor suggested by Lalonde.

Claim 31 further recites that the seller identification code is a telephone number of the telephone from which the seller is calling, and is recognized as the seller's telephone number by a caller identification technique. This is neither taught nor suggested by Lalonde.

For at least these additional reasons, reconsideration and withdrawal of the rejection, and allowance, of claim 29-31 are requested respectfully.

### **Claim 32**

Claim 32 depends from claim 23 and is likewise patentable. In addition, claim 32 recites that "presenting the good for sale" includes "displaying via the website information provided by the seller" as well as "displaying via the website additional information not provided by the seller, the additional information being retrieved from a

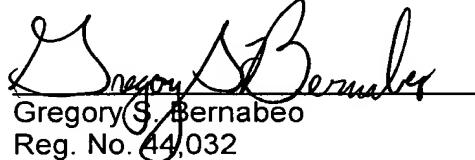
database, the additional information being stored in the database in association with the standard identification code provided by the seller." Thus, the standard identification code provided by the seller is used to identify certain information about the seller's good, and that certain information is displayed on the website when presenting the good for sale in addition to any information provided by the buyer. The standard identification code provided by the seller provides a reference for retrieving information pertinent to the seller's good. This is neither taught nor suggested by Lalonde.

For at least this additional reason, reconsideration and withdrawal of the rejection, and allowance, of claim 32 are requested respectfully.

### CONCLUSION

Appellants have shown in the arguments presented that the cited art fails to teach or suggest all claim limitations and/or provide the requisite motivation. Appellants, therefore, respectfully request that this Board reverse the Examiner's rejections and allow claims 1-13 and 21-32.

Respectfully submitted,

  
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**CLAIMS APPENDIX**

**CLAIMS INVOLVED IN THIS APPEAL:**

1. (Previously Presented) A computer-implemented method for listing an independent seller's good for sale using a CPU, a memory operatively connected to the CPU and a program stored in the memory and executable by the CPU for presenting the good for sale on a website, the method comprising:  
receiving from a seller information identifying a good, the information comprising a series of tones generated by depression of keys of a telephone; and  
presenting the good for sale on a website.
2. (Previously Presented) The method of claim 1, wherein the series of tones navigates through a voice-prompt system.
3. (Original) The method of claim 1, wherein the telephone is a touch tone telephone and wherein the series of tones comprises tones generated by depressing the telephone's keys in a sequence corresponding to an alphanumeric sequence of a standard identification code.
4. (Original) The method of claim 3, wherein the standard identification code is a universal product code.
5. (Original) The method of claim 3, wherein the standard identification code is an international standard book number.
6. (Previously Presented) The method of claim 1, further comprising:

retrieving information relating to the good from a database;  
wherein said information is used to present the good for sale .

7. (Previously Presented) The method of claim 6, wherein said presentation of the good for sale is performed in real time.

8. (Previously Presented) The method of claim 3 , wherein the information identifying the good identifies a characteristic of the good in addition to an identity of the good, the characteristic of the good being incapable of being discerned from the standard identification code, the identity of the good being discernable from the standard identification code.

9. (Previously Presented) The method of claim 6, further comprising :  
determining a recommended sale price for the good, the sale price being information relating to the good that is retrieved from the database;  
providing the recommended sale price to the seller; and  
receiving from the seller a selected sale price.

10. (Previously Presented) The method of claim 6, further comprising :  
determining a recommended sale price for the good, the sale price being information relating to the good that is retrieved from the database;  
providing the recommended sale price to the seller; and  
receiving from the seller a confirmation of the seller's acceptance of the recommended sale price and using the recommended sale price as the selected sale price.

11. (Previously Presented) The method of claim 1, further comprising : receiving a seller identification code that identifies the seller.

12. (Previously Presented) The method of claim 11, wherein the seller identification code received comprises tones generated by depressing the telephone's keys in a sequence corresponding to an alphanumeric sequence identifying the seller.

13. (Previously Presented) The method of claim 11, wherein the seller identification code is a telephone number of the telephone from which the seller is calling, and wherein receiving a seller identification code identifying the seller comprises recognizing the telephone's telephone number by a caller identification technique.

14-20. (Cancelled)

21. (Previously Presented) The method of claim 3, further comprising: using said standard identification code to reference a database; retrieving from the database information relating to the standard identification code, said information including a recommended sale price for the good; providing the recommended sale price to the seller; and receiving from the seller a selected sale price; wherein the information relating to the standard identification code is used to present the good for sale.

22. (Previously Presented) The method of claim 3, further comprising: using said standard identification code to reference a database;

retrieving from the database information relating to the standard identification code, said information including a recommended sale price for the good; providing the recommended sale price to the seller; and receiving from the seller a confirmation of the seller's acceptance of the recommended sale price and using the recommended sale price as the selected sale price; wherein the information relating to the standard identification code is used to present the good for sale.

23. (Previously Presented) A computer-implemented method for listing an independent seller's good for sale using a CPU, a memory operatively connected to the CPU and a program stored in the memory and executable by the CPU for presenting the good for sale on a website, the method comprising:

receiving from a seller a series of tones comprising tones generated by depressing keys of a telephone in a sequence corresponding to an alphanumeric sequence of a standard identification code;

adding the good to a virtual inventory of goods being offered for sale;

retrieving from the memory information associated with the standard identification code, the information relating to the good; and

presenting the good for sale on a website to display the information retrieved from the memory using the standard identification code.

24. (Previously Presented) The method of claim 23, wherein the series of tones further comprises tones generated by depressing the telephone's keys to identify a characteristic of the good that is incapable of being discerned from the standard identification code.

25. (Previously Presented) The method of claim 23, wherein the retrieving from the memory information associated with the standard identification code, and the presenting the good for sale on a website are performed after a buyer inquires about the good.

26. (Previously Presented) The method of claim 23, wherein the retrieving from the memory information associated with the standard identification code, and the presenting the good for sale on a website are performed after a buyer's search for the good.

27. (Previously Presented) The method of claim 23, wherein adding the good to a virtual inventory of goods being offered for sale comprises storing in the memory the standard identification code.

28. (Previously Presented) The method of claim 23, wherein retrieving from the memory information associated with the standard identification code comprises retrieving a recommended sale price for the good, the method further comprising providing the recommended sale price to the seller.

29. (Previously Presented) The method of claim 23, further comprising: receiving a seller identification code that is recognizable to identify seller information previously provided in association with the seller.

30. (Previously Presented) The method of claim 29, wherein the seller identification code comprises tones generated by depressing the telephone's keys in a sequence corresponding to an alphanumeric sequence associated with the seller.

31. (Previously Presented) The method of claim 29, wherein the seller identification code is a telephone number of the telephone from which the seller is calling, and wherein receiving a seller identification code comprises recognizing the telephone's telephone number by a caller identification technique.

32. (Previously Presented) The method of claim 23, wherein presenting the good for sale comprises:

displaying via the website information provided by the seller; and  
displaying via the website additional information not provided by the seller, the additional information being retrieved from a database, the additional information being stored in the database in association with the standard identification code provided by the seller.

**EVIDENCE APPENDIX**

No additional evidence presented.

**RELATED PROCEEDINGS APPENDIX**

No related proceedings identified.